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State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION		
Counsel For The State Bar Erin McKeown Joyce Acting Senior Trial Counsel 1149 South Hill Street Los Angeles, CA 90015-2299 (213) 765-1356 Bar # 149946	Case Number(s): 10-O-7865-DFM 11-O-13744-DFM	For Court use only <div style="text-align: right; font-size: 2em; font-weight: bold;">PUBLIC MATTER</div> <div style="text-align: center;"> <div style="font-size: 1.5em; font-weight: bold;">FILED</div> <div style="font-size: 1.2em;">SEP 10 2012</div> <div style="font-size: 0.8em;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div> <div style="font-size: 0.7em;">kwiktag® 152 141 707</div>  </div>
In Pro Per Respondent Kevin Patrick Gerry The Law Offices of Kevin Gerry 711 N. Soledad Street Santa Barbara, CA 93103 (805) 899-2990 Bar # 129690	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING	
In the Matter of: RHONDA KAY WALKER Bar # 175108 A Member of the State Bar of California (Respondent)	STAYED SUSPENSION; NO ACTUAL SUSPENSION <input checked="" type="checkbox"/> PREVIOUS STIPULATION REMANDED BY SUPREME COURT ORDER NO. S199030	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted December 12, 1994.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 13 pages, not including the order.

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- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☐ Costs are added to membership fee for calendar year following effective date of discipline.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: two (2) billing cycles immediately following the effective date of the Supreme Court Order in this matter. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☒ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☒ State Bar Court case # of prior case 09-O-17011 and 09-O-19216
 - (b) ☒ Date prior discipline effective March 16, 2011
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: In Case No. 09-O-17011, Rule of Professional Conduct 3-310(F). In Case No. 09-O-19216, Business and Professions Code section 6068(m) and Rules of Professional Conduct 3-110(A), 3-700(D)(1) and 3-700(D)(2). See attachment to the Stipulation Re Facts, Conclusions of Law and Disposition at pages 10 and 11 for further discussion.
 - (d) ☒ Degree of prior discipline sixty day actual suspension, one year stayed suspension, two year probation
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

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- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See attachment to the Stipulation re Facts, Conclusions of Law and Disposition at page 9.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.

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- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances

See attachment to the Stipulation re Facts, Conclusions of Law and Disposition at pages 9 and 10.

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of one (1) year.

i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent is placed on probation for a period of two (2) years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

(1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(3) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

(4) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

(5) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

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- (6) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) ☐ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- ☒ No Ethics School recommended. Reason: Respondent is required to complete Ethics School as part of her probation arising from discipline imposed in Case Nos. 09-O--17011 and 09-O-19216.
- (8) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) ☐ The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☐ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- ☒ No MPRE recommended. Reason: Respondent is required to pass the MPRE as part of her probation arising from discipline imposed in Case Nos. 09-O-117011 and 09-O-19216.
- (2) ☐ **Other Conditions:**

The attachment to the stipulation re facts, conclusions of law and disposition comprises pages 7 through 12.

ATTACHMENT TO

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

In the Matter of Rhonda Kay Walker

Case Nos. 10-O-7865 and 11-O-13744

PENDING PROCEEDINGS:

The disclosure date referred to on page two, paragraph A.(7), was August 28, 2012.

Respondent admits that the following facts are true and that she is culpable of violations of the specified Rule of Professional Conduct.

Case No. 10-O-7865

FACTS

1. On December 18, 2009, Benjamin Juarez hired Respondent to prepare a lawsuit against his home mortgage lender pertaining to a possible wrongful foreclosure action. At the initial consultation, Juarez complained that his lender deliberately denied receipt of paperwork from Juarez during the time period he was seeking a loan modification, which led to the wrongful foreclosure of his house. Juarez also claimed there were irregularities with his loan which might entitle him to some relief. Juarez' house had already been foreclosed at the time Juarez hired Respondent.
2. In January 2010, Juarez was served with an unlawful detainer lawsuit. Respondent was not retained to represent Juarez for the unlawful detainer lawsuit, and did not file an answer on his behalf. Juarez defaulted.
3. On February 4, 2010, Juarez faxed the writ of possession and notice to vacate in the unlawful detainer lawsuit to Respondent. Respondent did not receive the unlawful detainer summons and complaint from Juarez at any time.
4. At the time he sent Respondent the writ of possession and notice to vacate, Juarez requested Respondent to respond to the unlawful detainer lawsuit on his behalf. However, the scope of the services for which Juarez hired Respondent did not include defense of an unlawful detainer for Juarez.
5. As requested by Juarez, on February 5, 2010, Respondent filed an *ex parte* application to vacate the judgment after the default judgment was entered against Juarez.
6. Three days later, on February 8, 2010, the court denied Respondent's *ex parte* application.
7. Respondent performed a forensic audit of his real estate loan and prepared a draft complaint against Juarez' lender. Respondent did not file a lawsuit against Juarez's lender.

concerning the allegedly wrongful foreclosure, as included in the legal services to be performed.

8. Instead, in March 2009, Respondent sent Juarez a termination letter.

CONCLUSIONS OF LAW

By failing to complete the legal services for which she was retained by Juarez, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

Case No. 11-O-13744

FACTS

9. In March 2009, Debbie Gilmer hired Elite Mortgage Solutions ("Elite") for legal services related to her real estate loan. Elite was a company which offered a variety of real estate products and services.

10. Respondent maintained her own law practice.

11. Elite referred Gilmer to Respondent for legal services related to Gilmer's loan modification.

12. Respondent agreed to represent Gilmer in connection with her loan modification. Gilmer did not pay any monies to Respondent for legal services related to her loan modification or for any other purpose.

13. After agreeing to represent Gilmer, Respondent did not provide any legal services related to Gilmer's real estate loan.

14. In June 2010, Gilmer terminated Respondent. Gilmer negotiated a reduction in her payment and interest on her real estate loan on her own behalf without Respondent's assistance after she terminated Respondent.

CONCLUSIONS OF LAW

By failing to provide any legal services related to Gilmer's real estate loan in which Respondent agreed to represent Gilmer, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in wilful violation of Rule of Professional Conduct 3-110(A).

AGGRAVATING CIRCUMSTANCES

Multiple Acts of Misconduct

Respondent's current misconduct evidences multiple acts of wrongdoing. In these matters Respondent committed two violations of Rule of Professional Conduct 3-110(A) (failing to perform with competence), one in each of two separate client matters. In her prior discipline, the misconduct which arose at the same time as the present misconduct included five acts of misconduct in two additional client matters.

MITIGATING CIRCUMSTANCES

Family Problems

In June 2009, at the time the misconduct in these matters began, Respondent separated from her husband of ten years. Respondent's husband left the family home, where Respondent lived with her husband and then four-year-old child. Without notice, Respondent was responsible for 100% of the family's expenses. Respondent is still involved in an ongoing custody dispute. The breakup of her marriage and the ongoing child custody litigation began immediately prior to and continued through the time period of the misconduct. Respondent's serious marital problems distracted her from her practice and contributed to her inattention to her clients' affairs in all four matters (the two prior matters and the two current matters).

Respondent recognized the adverse effects the stress of the breakup of her divorce and child custody dispute was having in her personal and professional lives. Acting on this recognition, she began counseling with a Marriage and Family Therapist. That counseling gave her the insight and methods to effectively handle the stress resulting from the divorce and custody dispute. Her counseling and the passage of time have restored her to the practice of law without further adverse impact from this stress. Respondent continues in counseling with her therapist as a preventative measure.

Marital problems may be considered in mitigation even absent expert testimony. In *Hunnicutt v. State Bar* (1988) 44 Cal.3d 362, 373-374, mitigation was given where evidence was shown that marital problems occurring at the time of the misconduct were since resolved. In *Friedman v. State Bar* (1990) 50 Cal.3d 235, 243, mitigation was given where evidence was shown that at the time of the misconduct the attorney "began to experience marital problems, which subjected him to stress and as a result adversely affected his professional ability." Further, some mitigating weight may be given even where no expert evidence is given to establish an emotional difficulty or physical disability was "directly responsible" for the misconduct, where there are facts supporting that that condition impaired the Respondent's judgment and affected her ability to deal appropriately with the stress created. (*In re Brown* (1995) 12 Cal.4th 205, 222.) As in *Hunnicutt* and *Friedman*, Respondent's marital problems subjected her to significant stress and adversely affected her professional judgment and performance which has since been resolved. Some mitigating weight may be given even absent expert testimony as to a direct connection between the two.

Cooperation

Before the filing of a Notice of Disciplinary Charges, Respondent met with the State Bar, cooperated in these investigations, admitted her misconduct, and entered this Stipulation fully resolving this matter. Respondent's cooperation at this early stage has saved the State Bar significant resources and time. Respondent's stipulation to the facts, her culpability, and discipline is a mitigating circumstance. (*In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521).

AUTHORITIES SUPPORTING DISCIPLINE

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, Introduction (all further references to standards are to this source). The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession." (*In re Morse* (1995) 11 Cal.4th 184, 205; standard 1.3).

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11). Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. *In re Naney* (1990) 51 Cal.3d 186, 190. Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5).

Generally, the Standards are applied to only the misconduct in the current matters to determine the appropriate level of discipline; however, in certain situations, the misconduct from the prior discipline and the misconduct in the current matters should be considered together in determining discipline.

The reasoning for considering the prior discipline and the current misconduct together to determine the appropriate level of discipline is set forth in *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602. In *Sklar*, the attorney had prior discipline and was involved in a second disciplinary proceeding involving misconduct which occurred during the same time period as his prior discipline. The court acknowledged that "... part of the rationale for considering a prior discipline as having an aggravating impact is that it is indicative of a recidivist attorney's inability to conform his or her conduct to ethical norms [citation]. It is therefore appropriate to consider the fact that the misconduct involved here was contemporaneous with the misconduct in the prior case." *Sklar, supra* at 619. *Sklar* concluded that it was appropriate to consider the totality of the misconduct in the attorney's prior discipline and the pending matters to determine what discipline was appropriate had all the misconduct been brought together rather than separately.

A similar rationale and application is appropriate here. Respondent's misconduct in the current matters occurred at the same time as the misconduct in her prior discipline. Rather than considering a strict application of the standards to the current misconduct as if it was subsequent and further misconduct committed by an attorney displaying an inability to conform her conduct to ethical norms, it is appropriate to consider the current misconduct together with her prior misconduct which all occurred during the same time period.

The gravamen of Respondent's misconduct is her repeated failures to perform with competence, her single failure to communicate with a client, and her overall failure to attend to her clients' needs. The appropriate Standard to employ to assess Respondent's misconduct is Standard 2.4(b) which provides for reproof or suspension depending on the extent of the misconduct and the degree of harm to the client. Standard 2.4(b) provides for reproof or suspension, depending on the extent of the misconduct and degree of harm to the clients, where a member is culpable of willfully failing to perform services not demonstrating a pattern of misconduct or is culpable of wilfully failing to communicate with a client.

Here Respondent failed to perform legal services with competence in three matters and in one of those matters she also failed to respond to reasonable client inquiries, failed to return a client file and failed to promptly refund unearned fees. In another matter, Respondent accepted compensation for representing a client from one other than the client without protecting information related to the representation of the client.

In considering the extent of the misconduct, Respondent's misconduct was limited to four client matters which primarily occurred in the limited time span of mid 2009 to mid 2010.

In considering the degree of harm to the clients, some harm did result to the clients. In one matter in the prior discipline, Respondent delayed in refunding \$1,500 in unearned fees for a year. In the other prior matter, there is no evidence that any harm resulted from Respondent's accepting compensation for representing a client from one other than the client without protecting information related to the representation of the client.

In the current matters, Juarez was harmed to some degree by Respondent's failure to file a lawsuit against his lender in the three months she represented him. However, the lawsuit would have likely only resulted in Juarez staying some additional time in the house, as the property had already been foreclosed and an unlawful detainer action had extinguished his right to possession of the property. Further, Respondent attempted to help Juarez by filing an *ex parte* application to vacate the unlawful detainer judgment against Juarez after it was entered, which were services not included in their legal services agreement.

In the other current matter, though Gilmer also experienced some delay from Respondent's failure to perform in the few months of representation, no fees were involved and Gilmer successfully negotiated a reduction in her loan payment on her own. Thus, the extent of misconduct was limited and the harm to the clients was not significant.

The aggravating and mitigating circumstances must also be considered. In aggravation are Respondent's multiple acts and her prior discipline. Though the misconduct has been considered together, prior discipline should be considered in aggravation "[w]henver discipline is imposed." (*Lewis v. State Bar* (1973) 9 Cal.3d 704, 715). However, given the

recidivist rationale for considering a prior record of discipline in aggravation, the weight of the prior discipline is diminished.

In mitigation, Respondent's misconduct began at the time of the break up of her ten year marriage which left her with the full time care for her then four year old child. Respondent has also fully cooperated with the State Bar to resolve these matters with a stipulation prior to the filing of a Notice of Disciplinary Charges. Further, even though the misconduct here is serious, before all the misconduct considered here began, Respondent had no record of discipline in fourteen and a half years of practice.

Following Standard 2.4(b) and considering the totality of the misconduct considered in the prior and current matters, particularly in light of the extent of the misconduct and degree of harm to the clients, and considering the aggravating and mitigating circumstances, the appropriate level of discipline is sixty days actual suspension. As a sixty day actual suspension was already imposed in the prior discipline, stayed suspension is appropriate for the discipline to impose in the two current matters.

COSTS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed her that as of August 28, 2012, the estimated costs in this matter are \$3,692. Respondent further acknowledges that, should this Stipulation be rejected or should relief from the Stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

(Do not write above this line.)

In the Matter of:
Rhonda Kay Walker

Case number(s):
10-O-07865 and 11-O-13744

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

8/28/12

Date

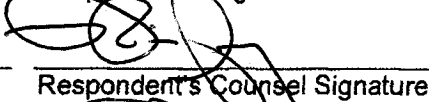

Respondent's Signature

Rhonda Kay Walker

Print Name

8-28-12

Date

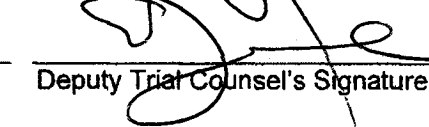

Respondent's Counsel Signature

Kevin Patrick Gerry

Print Name

8-28-12

Date


Deputy Trial Counsel's Signature

Erin McKeown Joyce

Print Name

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In the Matter of: Rhonda Kay Walker	Case Number(s): 10-O-07865 and 11-O-13744
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STAYED SUSPENSION ORDER

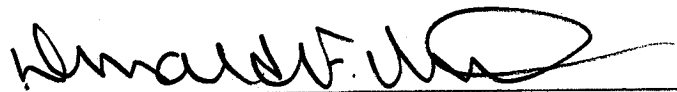
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

Pursuant to the stipulation of the parties, page 11 of this stipulation is deleted and replaced with Substitute Page 11, filed on September 4, 2011, and ordered to be attached hereto and incorporated herein by reference.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

9/7/12
Date


Judge of the State Bar Court
DONALD F. MILES

ORIGINAL

FILED

SEP 04 2012

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
JAYNE KIM, No. 174614
CHIEF TRIAL COUNSEL
JOSEPH R. CARLUCCI, No. 172309
DEPUTY CHIEF TRIAL COUNSEL
CHARLES A. MURRAY, No. 146069
ASSISTANT CHIEF TRIAL COUNSEL
ERIN McKEOWN JOYCE, No. 149946
ACTING SENIOR TRIAL COUNSEL
1149 South Hill Street
Los Angeles, California 90015-2299
Telephone: (213) 765-1091

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:

Case Nos. 10-O-7865 et al.

RHONDA KAY WALKER,
No. 175108,

**NOTICE OF LODGING SUBSTITUTE
PAGE 11 OF STIPULATION**

A Member of the State Bar.

PLEASE TAKE NOTICE that the substitute page 11 to the stipulation re facts,
conclusions of law and disposition lodged originally on August 28, 2012, is submitted herewith
as Attachment 1.

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

Dated: September 4, 2012

By:


Erin McKeown Joyce
ACTING SENIOR TRIAL COUNSEL

A similar rationale and application is appropriate here. Respondent's misconduct in the current matters occurred at the same time as the misconduct in her prior discipline. Rather than considering a strict application of the standards to the current misconduct as if it was subsequent and further misconduct committed by an attorney displaying an inability to conform her conduct to ethical norms, it is appropriate to consider the current misconduct together with her prior misconduct which all occurred during the same time period.

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In the current matters, although Juarez was potentially harmed to some degree by Respondent's failure to file a lawsuit against his lender in the three months she represented him, Respondent attempted to help Juarez by filing an *ex parte* application to vacate the unlawful detainer judgment against Juarez after it was entered, which were services not included in their legal services agreement.

In the other current matter, though Gilmer also experienced some delay from Respondent's failure to perform in the few months of representation, no fees were involved and Gilmer successfully negotiated a reduction in her loan payment on her own. Thus, the extent of misconduct was limited and the harm to the clients was not significant.

The aggravating and mitigating circumstances must also be considered. In aggravation are Respondent's multiple acts and her prior discipline. Though the misconduct has been considered together, prior discipline should be considered in aggravation "[w]henver discipline is imposed." (*Lewis v. State Bar* (1973) 9 Cal.3d 704, 715). However, given the

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): **10-O-07865-DFM, 11-O-13744-DFM**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF LODGING SUBSTITUTE PAGE 11 OF STIPULATION



By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.



By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))



By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").



By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.



By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.



(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: *(see below)*



(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,
Article No.: _____ at Los Angeles, addressed to: *(see below)*



(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,
Tracking No.: _____ addressed to: *(see below)*

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
KEVIN GERRY	THE LAW OFFICES OF KEVIN GERRY 711 N. SOLEDAD STREET SANTA BARBARA, CA 93103	Electronic Address	

☐ via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

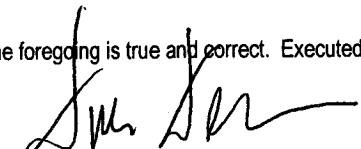
I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: September 4, 2012

SIGNED:


JULI JENEWEIN
Declarant

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on September 10, 2012, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND
ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

KEVIN P. GERRY
711 N SOLEDAD ST
SANTA BARBARA, CA 93103

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

ERIN JOYCE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 10, 2012.



Rose Luthi
Case Administrator
State Bar Court